

**UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA**

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Twin City Pipe Trades Service  
Association, Inc.

Case No.: 10cv4024 (SRN/SER)

Plaintiff,

v.

**REPORT & RECOMMENDATION**

Kleve Heating & A/C, Inc.,

Defendant.

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Plaintiff Twin City Pipe Trades Service Association, Inc., filed a Complaint alleging defendant Kleve Heating & A/C, Inc. did not adhere to the requirements of employee benefit plans established and maintained by employers engaged in commerce or an industry actively affecting commerce within the meaning of Section 4 of the Employee Retirement Income Security Act of 1974, 29 U.S.C. §1003 on September 23, 2011 [Doc. No. 1].

Defendant did not respond to the Complaint. On May 13, 2011, an Order was issued by this Court instructing Plaintiff to 1.) Notify defense counsel immediately that he/she is required to make an appearance or move for an extension of time to do so; 2.) File an application for entry of default unless the required pleading is filed within 10 days; or 3.) Advise the Court in writing of any good cause to the contrary. Plaintiff failed to respond to the Court's Order within the 20 day deadline.

Based on the foregoing, and all the files, records, and proceedings herein, **IT IS HEREBY RECOMMENDED** that this action be **DISMISSED WITHOUT PREJUDICE**.

Dated: September 19, 2011

s/Steven E. Rau

Steven E. Rau

U.S. Magistrate Judge

Under D. Minn. LR 72.2(b), any party may object to this Report and Recommendation by filing with the Clerk of Court, and serving all parties by **October 2, 2011**, a writing which specifically identifies those portions of this Report to which objections are made and the basis of those objections. Failure to comply with this procedure may operate as a forfeiture of the objecting party's right to seek review in the Court of Appeals. A party may respond to the objecting party's brief within ten days after service thereof. A judge shall make a de novo determination of those portions to which objection is made. This Report and Recommendation does not constitute an order or judgment of the District Court, and it is therefore not appealable to the Court of Appeals.